



DEFENSE FINANCE AND ACCOUNTING SERVICE

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APR 22 1999

DFAS-HQ/FMM

MEMORANDUM FOR DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
CLEVELAND CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
DENVER CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
INDIANAPOLIS CENTER
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KANSAS CITY CENTER

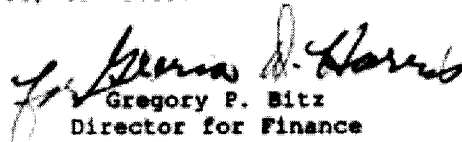
SUBJECT: Change to the DoDFMR, Volume 7A, Regarding Designation
of Federal Republic of Yugoslavia, Albania, the
Adriatic Sea, and part of the Ionian Sea as a Combat
Zone (DFAS Item I-13)

Attached is DFAS Interim Change 13-99 to chapter 44 of the
DoDFMR, Volume 7A. It was effective March 24, 1999.

This change implements Executive Order 13119 of
April 13, 1999, which designates the Federal Republic of
Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and
the Ionian Sea North of the 39th parallel as a combat zone.

Due to the routine nature, non-interpretive aspect of this
change, and the urgency of disseminating this information, it
was not submitted for preliminary review and comment.
Assignment of an interim change number is your authority to
start a procedural modification to facilitate this change. For
the Denver Center, use the attached to initiate the formal
printed change to the DoDFMR and the interim change message.

Our point of contact, Ms. Ann Cook, may be contacted at
DSN 337-5059 or (703) 607-5059.


Gregory P. Bitz
Director for Finance

Attachment:
As stated

cc: DASD (NPF) (COMP)
ODGC (F)
DFAS-DE/DG
Service Liaisons
USCG/NOAA/PHS Liaisons

**DESIGNATION OF FEDERAL REPUBLIC OF YUGOSLAVIA
(SERBIA/MONTENEGRO), ALBANIA, THE AIRSPACE ABOVE, AND ADJACENT
WATERS AS A COMBAT ZONE**

1. Make the following change to DODFMR, Volume 7A, Chapter 44 and the bibliography:

a. Insert new paragraph 440103A.4 to read as follows:

"Effective March 24, 1999, Executive Order 13119 designated the following areas (including the airspace above) as a combat zone: The Federal Republic of Yugoslavia (Serbia and Montenegro); Albania; the Adriatic Sea, and the Ionian Sea north of the 39th parallel."

CHAPTER 44

WITHHOLDING INCOME TAX4401 WITHHOLDING FROM CURRENT PAY

★440101. Wages Subject to Withholding of Federal and State Income Tax. The taxable pay (Table 44-1) of all Military Service members except those listed in paragraph 440102, below, is subject to withholding of federal and state income tax. The taxable value of certain noncash fringe benefits, in excess of statutory limitations, that is provided to some members, is subject to federal and applicable state income taxes (see Table 44-1, rules 18 and 19).

440102. Wages Not Subject to Withholding of Federal and State Income Tax. Military pay of the following Military Service members is not subject to withholding of federal and state income tax:

★A. On or before 31 March 1996, all active duty members for any month during which they qualify for combat zone or qualified hazardous duty area exclusion, as prescribed in paragraph 440103, below. Beginning 1 April 1996, for commissioned officers (O-1 and above), pay earned up to the highest rate of pay payable to any enlisted member plus the amount of hostile fire/imminent danger pay that is actually payable to the officer for any month during which they qualify for combat zone or qualified hazardous duty area exclusion, as prescribed in paragraph 440103, below, is not subject to withholding of federal and state income tax.

★B. All active duty members for any month during any part of which the member is in a missing status as defined in the Definitions during the Vietnam conflict as a result of such conflict; except for periods for which it is officially determined that the member is absent from post of duty without authority. These provisions are effective from 28 February 1961 and terminated on 30 June 1996.

C. Federal income tax will not be withheld upon military wages of legal residents of Puerto Rico. United States income tax withholding is precluded upon military wages properly subject to Puerto Rico withholding. Puerto Rico withholding is not required on wages earned but unpaid at the date of death of a military member. Federal income tax withholding is proper on these wages.

★440103. Combat Zone Income Tax Exclusion for Active Service in a Combat Zone or Qualified Hazardous Duty Area

A. Combat Zone Defined

1. Effective 1 January 1964, Executive Order 11216 (reference (cc)) designated the following area as a "combat zone." Vietnam, including the waters adjacent thereto within the following described limits: From a point on the east coast of Vietnam at the

juncture of Vietnam with China southeastward to 21 degrees N. Lat., 108 degrees 15' E. Long.; thence southward to 18 degrees N. Lat., 108 degrees 15' E. Long.; thence southeastward to 17 degrees 30' N. Lat., 111 degrees E. Long.; thence southward to 11 degrees N. Lat., 111 degrees E. Long.; thence southwestward to 7 degrees N. Lat., 105 degrees E. Long.; thence westward to 7 degrees N. Lat., 103 degrees E. Long.; thence northward to 9 degrees 30' N. Lat., 103 degrees E. Long.; thence northeastward to 10 degrees 15' N. Lat., 104 degrees 27' E. Long.; thence northward to a point on the west coast of Vietnam at the juncture of Vietnam with Cambodia. The island of Phu Quoc is a part of the territory of Vietnam.

2. Effective 17 January 1991, Executive Order 12744 (reference (cd)) designated the following areas (including air space and adjacent waters) as "combat zones." Persian Gulf; Red Sea; Gulf of Oman; Gulf of Aden; that portion of the Arabian Sea that lies north of 10 degrees N. Lat., and west of 68 degrees E. Long.; and the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

★3. Per Executive Order 13002 (reference (eh)), signed 13 May 1996, the designation of Vietnam and waters adjacent thereto as a combat zone was terminated effective as of midnight 30 June 1996.

★B. Qualified Hazardous Duty Area Defined. Effective 21 November 1995, Public Law 104-117 (reference (ei)) authorized tax benefits for members performing services in peacekeeping efforts in Bosnia-Herzegovina, Croatia, and Macedonia, hereinafter referred to as qualified hazardous duty areas, in the same way as if services were performed in a combat zone.

★C. Qualification for Combat Zone Income Tax Exclusion for Active Service in a Combat Zone or Qualified Hazardous Duty Area. A member of the Armed Services is entitled to combat zone tax exclusion or qualified hazardous duty area exclusion for any month during any part in which:

★1. A member performs active service in a combat zone or qualified hazardous duty area designated in subparagraph A, above. Periods in the zone or area during which members are absent from their duty assignments in the zone or area on account of sickness, wounds, internment by the enemy, or other lawful cause are periods of active service.

★2. A member in active service in a combat zone or qualified hazardous duty area who becomes a prisoner of war or missing in action is deemed, for the purposes of this paragraph, to continue in active service in the combat zone or area for the period for which member is entitled to such status for military pay purposes.

★3. A member, assigned to duty in the combat zone or qualified hazardous duty area on or after 21 November 1995, who is directed to perform temporary duty, granted official leave, or is authorized to depart from the zone or area for other lawful cause, and whose departure or return is on any day of the month may receive the combat zone or qualified hazardous duty area exclusion for that month. Exception: In instances when the absence on leave, TAD, or TDY extends over a period which includes a full calendar month, the tax

exclusion may not be allowed for that calendar month.

★4. A member who is present, however briefly, in the combat zone or qualified hazardous duty area on official duty requiring presence in that zone or area qualifies for combat zone or qualified hazardous duty area tax exclusion for that month. When the airspace over a combat zone or qualified hazardous duty area is included as part of the zone or area, members who pass over or through the zone or area during the course of a trip between two points, both of which lie outside the zone or area, are entitled to an exclusion only if the members are assigned to official temporary duty to the airspace of the zone or area, or qualify for hostile fire/imminent danger pay as a result of the flight. If the airspace is not designated for imminent danger pay, (but is part of the designated zone or area), members must be assigned to perform duty in the airspace rather than flying over the zone or area as in an incidental part of the trip to qualify for the exclusion. The fact that most members are in an official duty status when flying through a designated airspace should not be construed to mean they are assigned to the airspace to perform duty and therefore entitled to the exclusion. The following examples apply:

★Example 1. Member A is assigned as a navigator to an air unit stationed outside the combat zone. On 4 June, during the course of a flight between Member A's home base and another base outside the combat zone, the aircraft on which Member A serves as a navigator flies over a combat zone (the airspace is part of the designated combat zone). Member A is not on official temporary duty in the airspace of the combat zone and does not qualify for hostile fire/imminent danger pay as a result of the flight. Accordingly, Member A is not deemed to have served in a combat zone since Member A passes through the zone without either being on official duty to the combat zone or qualifying for hostile fire/imminent danger pay.

★Example 2. Same scenario as example 1, except that the airspace is not part of the designated zone and Member B is entitled to hostile fire/imminent danger pay as a result of the flight. Member B is deemed to have served in a combat zone and entitled to the combat zone tax exclusion if Member B's duties are determined to be in direct support of the military operation in the zone.

★Example 3. Member C is a navigator of an air unit stationed outside a combat zone. On 4 June, Member C is ordered to perform duty (execute a mission) in the airspace over the combat zone (which is part of the designated zone) and return to his home station outside the combat zone. Member C is not entitled to hostile fire/imminent danger pay as a result of the flight. Member C is entitled to the combat zone tax exclusion for the month of June for performing official temporary duty in the airspace (combat zone) during the period.

★5. A member performs military duties in areas outside the combat zone or qualified hazardous duty area in direct support of military operations in the combat zone or qualified hazardous duty area and qualifies for hostile fire or imminent danger pay under Chapter 10. (The hostile fire or imminent danger pay entitlement must be related to activities or circumstances in the combat zone or qualified hazardous duty area.) Commanders/commanding officers who feel members of their unit qualify for combat zone or qualified hazardous duty area treatment under this provision should request certification from the applicable approval authority

as designated by the Secretary of Defense.

a. When members are entitled to tax exclusion under this paragraph, entitlement continues for periods of absence, prisoner or missing status, and temporary duty as stated for service in the actual combat zone or qualified hazardous duty area in subparagraph C.1, 2, 3, or 4, above.

b. Service is in direct support of military operations in a combat zone or qualified hazardous duty area if it has the effect of maintaining, upholding, or providing assistance for those involved in military operations in the combat zone or qualified hazardous duty area. The following examples are provided to assist in determining whether or not personnel qualify for combat zone or qualified hazardous duty area tax exclusion. In each case, personnel must be entitled to hostile fire pay/imminent danger pay.

★(1) Since the act of transporting necessary supplies is a function included within the concept of providing direct support of military operations, services rendered on a supply vessel transporting supplies to a combat zone or qualified hazardous duty area are in direct support of military operations in the combat zone or qualified hazardous duty area.

★(2) If an airship in a nearby country outside the combat zone or qualified hazardous duty area is used to transport supplies and personnel into the combat zone or qualified hazardous duty area, the ground crews who load the aircraft and the maintenance personnel who maintain the aircraft all qualify for combat zone or qualified hazardous duty area tax exclusion. In addition, members who maintain and control the airstrip (e.g., as a meteorologist or air traffic controllers) are performing services in direct support of military operations in the combat zone or qualified hazardous duty area and would also qualify.

★(3) Members of a unit or installation who support and assist other members of the unit or installation who serve in direct support of military operations in a combat zone or qualified hazardous duty area are considered as serving in direct support of military operations in the combat zone or qualified hazardous duty area. Generally, all members serving in support of operations at an installation where some members serve in direct support of military operations in a combat zone or qualified hazardous duty area are serving in direct support of military operations in that combat zone or qualified hazardous duty area (e.g., unit or installation personnel for an airstrip would qualify).

★6. A member is hospitalized or rehospitalized any place as a result of wounds, disease, or injury incurred while serving in a combat zone or qualified hazardous duty area or while serving in areas under subparagraph C.5, above. A member is considered as hospitalized or rehospitalized until such time as status as a hospital patient ceases by reason of discharge from the hospital. Combat zone or qualified hazardous duty area tax exclusion under this subparagraph shall not apply to any months beginning more than 2 years after the date of the termination of activities in the combat zone or qualified hazardous duty area.

★D. Periods For Which Tax Exclusion Does Not Apply. Members who are in the combat zone or qualified hazardous duty area merely for their own convenience, e.g., while on leave from a duty station not in the zone or area, are not entitled to the exclusion.

★E. Tax Abatement in Case of Death

★1. A member who dies in a combat zone or qualified hazardous duty area, or as a result of wounds, disease, or injury incurred while serving in the combat zone or qualified hazardous duty area (including under subparagraph C.5, above) is exempt from income tax for:

- a. The taxable year in which death occurs.
- b. Any prior taxable year ending on or after the first day served in a combat zone or qualified hazardous duty area.
- c. Any such tax for prior years which remains unpaid at date of death.

2. For missing members, the date of death is not earlier than the date on which a determination of death is made. The preceding sentence does not cause abatement of taxes for any taxable year beginning:

- a. After 2 January 1978, for service in the combat zone designated for purpose of the Vietnam conflict, or
- b. More than 2 years after the date designated under 26 U.S.C. 112 (reference (ce)) as the date of termination of combatants' activities in any combat zone other than that designated for purposes of the Vietnam conflict.

★F. Termination Date Other than Cases of Hospitalization. In no case will the tax exclusion authorized in subparagraph C.1 through C.6, above, for active duty members extend beyond the effective date specified in an executive order terminating the designation of the combat zone, or in the case of qualified hazardous duty areas, the effective date of the termination of imminent danger pay for the area.

440104. Tax Abatement for Death Caused by Terrorist or Military Action Overseas. A member whose death was caused by terrorist or military action (excluding training exercises) overseas qualifies for federal tax abatement under the provisions of 26 U.S.C. 692(c) (reference (ce)). The law forgives the deceased member's tax liability for the year of death and for all prior tax year(s) for the period beginning with the tax year before the year the injuries or wounds were incurred. The deceased member's survivors, executor, or administrator should contact the Internal Revenue Service for necessary guidance in claiming the tax exemption.

440105. Rate of Withholding